THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.25064 of 1996

Dated: 22.01.2007

Between
Mohd.Subhan Sharif,
S/o.Jhangir Sheikh
Hyderabad.

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Petitioner
And

1. The Labour Court-III
   Chandravihar Building,
   Hyderabad and another.

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Respondents

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THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.25064 of 1996

ORDER:

Against the award in I.D.No.666 of 1992, dated 29.03.1996, this writ petition is filed.

On the ground of rituous and disorderly behaviour, which was held proved in departmental enquiry, the petitioner was imposed the punishment of dismissal from service and the said order was challenged before the Labour Court-III, wherein the charges were held established. However, on the quantum of punishment, the Labour Court held that since the incident had occurred with regard to the payment of contribution to the Union President's fund, imposition of punishment of dismissal from service was disproportionate and, on the principle of 'No work No pay', the petitioner was denied back wages, while ordering his reinstatement with continuity of service and attendant benefits. Questioning the award to the extent he was denied back wages, the present writ petition is filed.

Since the charge of rituous and disorderly behaviour was held established the Labour Court, in exercise of its powers under Section 11-A of the Industrial Disputes Act, 1947 (for short 'the Act'), denied back wages to the petitioner as a measure of punishment.

It is well settled that the Labour Court, while exercising its jurisdiction under Section 11-A of the Act, would ordinarily not interfere with the quantum of

punishment, which is in the employer's realm. It is only if the punishment imposed is grossly disproportionate to the charge held established would the Labour Court be justified in exercising its powers under Section 11-A of the Act.

Further this Court, under Article 226 of the Constitution of India, ordinarily would not interfere with the discretion exercised by the Labour Court under Section 11-A of the Act.

In the present case, the Labour Court, in exercise of its discretion under Section 11-A of the Act, has recorded a finding that the charge leveled against the petitioner was held established and directed reinstatement while denying him back wages. Though denial of back wages is said to be on the ground of 'No work No pay', the fact remains that denial thereof was as a measure of punishment. The Labour Court has modified the punishment of dismissal imposed by the employer to one of denial of back wages. The impugned award passed by the Labour Court does not therefore, necessitate interference by this Court.

The Writ Petition is accordingly dismissed. There shall be no order as to costs.

Ramesh Ranganathan, J

Date: 22.01.2007
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